

ADA TOWNSHIP ZONING BOARD OF APPEALS SPECIAL MEETING TUESDAY, OCTOBER 27, 2020, 4:30 P.M. 7330 THORNAPPLE RIVER DRIVE ADA, MICHIGAN

AGENDA

- I. CALL MEETING TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES September 15, 2020 Special Meeting Minutes
- V. UNFINISHED BUSINESS None
- VI. NEW BUSINESS
 - 1. Request for variance to permit accessory buildings as principal buildings, prior to the construction of single-family dwellings, on two (2) parcels being created from the subject properties included in a 13 parcel Land Division, 3050 and 3046 Pettis Ave NE, parcel numbers 41-15-05-300-028 & 029, Michael C. Bieker, for the Michael C. Bieker Trust & Stephen A. Bartz
- VII. CORRESPONDENCE
- VIII. PUBLIC COMMENT
 - IX. ADJOURNMENT

ADA TOWNSHIP ZONING BOARD OF APPEALS MINUTES OF THE TUESDAY, SEPTEMBER 15, 2020, SPECIAL MEETING



A special meeting of the Ada Township Zoning Board of Appeals was held on Tuesday, September 15, 2020, at 4:30 p.m. The meeting was held by video/audio-conferencing, in conformance with the Michigan Governor's Executive Order.

CALL TO ORDER

The meeting was called to order by Chair Dixon at 4:36 p.m.

ROLL CALL

Members present: Burton, Dixon, Nuttall, Smith

Members absent: McNamara Staff Present: Bajdek, Ferro

Public: 1

APPROVAL OF AGENDA

Moved by Nuttall, supported by Smith, to approve the agenda as presented. Motion carried with roll call vote 4-0, with 1 absent.

APPROVAL OF MINUTES

Moved by Smith, supported by Burton, to approve the August 11, 2020 meeting minutes as presented. Motion carried with roll call vote 4-0, with 1 absent.

UNFINISHED BUSINESS – None.

NEW BUSINESS

1. Request for variance from the required rear yard setback of 50 feet to a width varying from 41.7 feet to 45.8 feet, for a deck and associated stairs, 770 Dogwood Meadows Dr. SE, Parcel No. 41-15-34-479-102, Chris Penning for Charles Draznin & Nirali Bora

Dixon invited the applicant to present his request. Mr. Draznin stated he lives in the Ada Moorings neighborhood at 770 Dogwood Meadows Dr, SE. An overview of the variance request for the proposed deck project was given by Mr. Draznin. He stated that his current deck is structurally unsafe and explained the nonconformities of it and the associated stairs.

Bajdek summarized the request as included in his staff memo. Bajdek stated a new rear yard deck system is planned for the subject property, which does include the replacement of an existing 12' x 12' elevated deck and associated stairs along with an eight (8) foot northwesterly extension which would create a 12' x 20' elevated deck; a ground level deck is also proposed. Bajdek stated additionally, a 4-season room is planned to be constructed on the 12' x 12' portion of the deck in the future, and that is stated on the attached survey drawing/site plan. The elevated deck and ground level deck are planned to "tie" into each other/connect with one another.

Bajdek stated the existing 12' x 12' elevated deck (without stairs) was indicated on the site plan provided and approved at the time of building permit application submittal for the construction of the existing dwelling. However, with the submittal of a building permit application for the current deck project, as the applicant stated, it

was determined that a portion/corner of the existing deck was constructed not meeting the required 50-foot setback and that unapproved deck stairs also exist, not conforming to rear yard setback regulations.

The northwestern portion of the corner of the elevated deck, as well as the stairs, do not satisfy the 50-foot rear yard setback due to the rear lot line running at an angle and the onsite placement/orientation of the dwelling causing an irregular back yard configuration. Bajdek pointed out that the ground level decks that are less than 30 inches above grade are not subject to the setback requirements, so we are only looking at the elevated deck.

Bajdek reviewed the criteria which must be met in order for the Zoning Board of Appeals to grant a variance:

1. Whether unique physical circumstances exist which cause a "practical difficulty" in complying with the Zoning Ordinance standards.

The layout design of the home, as well as its location in relationship to the irregular shape of the back yard due to the angular rear lot line, causes a practical difficultly in constructing a moderately sized elevated deck with associated stairs meeting the required 50-foot rear yard setback that logically connects to a ground level deck.

2. Whether granting the variance would alter the essential character of the area.

The granting of the variance would not alter the essential character of the area.

3. Whether the circumstances leading to the variance are self-created.

Circumstances leading to the variance are primarily not self-created.

4. Whether amending the Zoning Ordinance standards is a more appropriate remedy to the situation.

An amendment of the Zoning Ordinance is not deemed as an appropriate remedy to the situation.

Bajdek concluded the layout design of the home, as well as its location in relationship to the irregular shape of the back yard, due to the angular rear lot line, causes a practical difficulty in constructing a moderately sized elevated deck with associated stairs meeting the required rear yard setback of 50 feet.

It is staff's recommendation that the subject setback variance request be approved to permit the elevated deck, including the future 4-season room, and associated stairs, as depicted on the submitted survey drawing/site plan, which would encroach into the required rear yard.

Chair Dixon opened the public hearing. There was no public comment, and the public hearing was closed.

Smith asked if the original 12' x 12' deck was built when the house was built or added later. Bajdek confirmed the deck was built at the time the house was built.

Smith asked how does the elevated part of the deck tie into the ground level part of the deck. Mr. Draznin explained the layout of the upper deck landing with stairs going down to lower level landing to tie in the upper and lower levels.

Smith also asked a question on the applicant's narrative statement regarding the future consideration of turning a portion of the new deck into a 4-season room. If we grant the variance would it apply toward the future enclosure of the room. Bajdek stated the variance would apply as long as the footprint is not expanded.

DRAFT

There was some discussion about the shapes of lots in the Ada Moorings neighborhood and Bajdek shared some history of other rear yard setback variances granted for decks in the neighborhood.

Following Board member discussion, it was moved by Smith, supported by Nuttall, to approve the variance request, based on the findings that the required standards to grant the variance have been satisfied. Motion carried with roll call vote 4-0, with 1 absent.

CORRESPONDENCE

No correspondence was received.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Moved by Burton, supported by Nuttall to adjourn meeting at 5:00 p.m.

Respectfully submitted,

Jacqueline Smith
Ada Township Clerk

rs:eb

Date: 09-30-20



TO: Ada Township Zoning Board of Appeals **FROM:** Brent Bajdek – Planner/Zoning Administrator

RE: Agenda Item for the October 6, 2020 October 27, 2020 Special Meeting

1. Request for variance to permit accessory buildings as principal buildings, prior to the construction of single-family dwellings, on two (2) parcels being created from the subject properties included in a 13 parcel Land Division, Parcel Nos. 41-15-05-300-028 & 029, Michael C. Bieker, for the Michael C. Bieker Trust & Stephen A. Bartz

Overview

A land division request was recently approved by the Planning Commission allowing for the creation of 13 parcels from the subject properties (3050 & 3046 Pettis Ave. NE), zoned RP-1 Rural Preservation 1. The two (2) parcels that are included in the land division are a 95.2-acre parcel and a five (5) acre parcel; both parcels are occupied by existing homes. The 95-acre parcel is also occupied by several accessory buildings, including one previously granted zoning approval as a private heliport, and a large 'red' barn (built as an agricultural building); all of these existing improvements are proposed to be retained.

Two (2) accessory buildings (the one previously granted zoning approval as a private heliport and a large 'red' barn) are desired to remain on parcels without principal structures by the applicant, with one (1) on proposed Parcel 'B' and the other on proposed Parcel 'J.' It is the applicant's intent to construct new single-family homes/principal structures on the parcels within 24 months/2 years and the buildings becoming accessory to such dwellings once they are built.

A condition of the approval of the land division was that the splitting of proposed Parcels 'B' and 'J,' with the existing accessory buildings remaining, shall only be permitted if a variance to permit this condition is granted by the Zoning Board of Appeals, since Zoning Ordinance regulations prohibit an accessory building on parcel without a principal structure 78-20(a)(1).

Please note if the subject variance request was to be granted by the Board, the time in which the properties would be brought back into conformance with 78-20(a)(1) of the Zoning Ordinance would be once single-family dwellings are constructed on them.

Additionally, please be made aware that the zoning approval for the private heliport on the current 95-acre parcel was terminated and became null and void with the approval of the land division and site plan by the Planning Commission.

Analysis

Since the subject variance request is related to use (to permit accessory buildings without principal structures), it is considered a **use variance**. Please be reminded that a **use variance** is a variance that permits a use of land or structure that would not otherwise be allowed in the zoning district in which the parcel is located.

Additionally, zoning administrative decisions are permanent; they cannot be made on a temporary basis or have an expiration date.

The Board of the Zoning Appeals may grant variances only upon finding that the following criteria have been satisfied:

1. Whether unique circumstances exist which cause a "*hardship*" in complying with the Zoning Ordinance standards.

Literal enforcement will create a hardship by requiring the accessory buildings to be removed from the property due to a land division of a property, which satisfies the Land Division Act and Township regulations. The existing buildings that are intended to become accessory buildings to dwellings once they are built, have remaining value which will be lost if required to be removed from the property.

2. Whether granting the variance would alter the essential character of the area.

The granting of the variance would not alter the essential character of the area. No physical modifications to the exterior of the existing buildings are proposed at this time.

3. Whether the circumstances leading to the variance are self-created.

New homes are planned to be constructed on both parcels no later than 24 months/2 years from now. The only circumstance/action creating the non-conformities is by the land division of a property, which satisfies the Land Division Act and Township regulations.

4. Whether amending the Zoning Ordinance standards is a more appropriate remedy to the situation.

An amendment of the Zoning Ordinance is not deemed as an appropriate remedy to the situation. The conditions leading to this variance request are not so common or recurring, which would indicate that amending the zoning regulations would be a more appropriate solution.

Conclusion & Recommendation

Literal enforcement will create a hardship by requiring the accessory buildings to be removed from the property due to a land division of a property, which satisfies the Land Division Act and Township regulations. Allowing the existing accessory buildings to remain on proposed Parcels 'B' and 'J' until single-family dwellings are constructed will not alter the essential character of the area.

Approval of the variance request is recommended by Staff, subject to the condition that the accessory buildings shall not be used for any purposes.



ZONING BOARD OF APPEALS APPLICATION

(ZONING VARIANCE OR ADMINISTRATIVE APPEAL)

1. Applicant Information:
Name: Mike Bieke-, for the Michael C. BHKIR TRUST
Name: Mike Bieke-, for the Michael C. Birker Trust Address: 3050 Pettis Ave. NE Address: Ave. NE
Phone Number: 616-813-6406 Email: Mike & bieker capital. com
2. OWNER (if different than above): Same +
Name: Stephen A. Bustz
Address: 3044 Pettis Ave. NE
Phone Number: UN - 915 - 0398 Email: ia streb@gmail.com
3. DESCRIPTION OF VARIANCE OR APPEAL REQUEST: Variance is requested from having a out building on a
Variance is requested from having a out building on a parcel of land without having a principle building on
the parcel first >Parcel "B" + Paral" J"
4. PERMANENT PARCEL NUMBER: 41-15-05-300-028 +029
5. PROPERTY ADDRESS: 3050 Pettis 6. ZONING DISTRICT: RP-1
7. Aπach:
A. AN ACCURATE SITE PLAN OF THE PROPERTY, DRAWN TO A STANDARD ENGINEERING SCALE, SHOWING:
 Property boundaries. Existing and proposed buildings or structures. Distance from lot lines of each existing and proposed building or structure. Unusual physical features of the site, building, or structure. Abutting streets.

- B. A NARRATIVE STATEMENT WHICH ADDRESSES COMPLIANCE OF THE VARIANCE REQUEST WITH THE STANDARDS FOR APPROVAL CONTAINED IN THE ZONING ORDINANCE AND LISTED ON THE REVERSE SIDE OF THIS APPLICATION FORM.
 - * APPLICATIONS SUBMITTED WITHOUT A NARRATIVE STATEMENT WILL NOT BE ACCEPTED *

8. PETITIONER AFFIDAVIT:

I understand that if the requested variance or appeal is granted, I am not relieved from complying with all other applicable requirements of the Ada Township Zoning Ordinance or any other Township Ordinances. By signing, the applicant and owner hereby grant permission to Ada Township officials and employees to enter upon the subject property for purposes of review and evaluation of this request.

APPLICANT'S SIGNATURE:	nM	DATE:	8//	4/2	20
	901		8/14	7).	2 -
OWNER'S SIGNATURE:		DATE:	0/1	7 / 6	<u> </u>
(If different than applicant)			,		

9. PLEASE NOTE THE FOLLOWING BOARD OF APPEALS PROCEDURES:

- The application form, application fee, site plan and narrative statement must be submitted at least one (1) month prior to the regularly scheduled Zoning Board of Appeals meeting. Regular meetings of the Zoning Board of Appeals are generally held on the first (14) Tuesday of each month at 4:30 p.m.
- b) Notices of the hearing will be given at least 15 days prior to the hearing to the applicant and to all property owners and occupants within 300 ft. of the property subject to appeal.
- c) Following the hearing, the Board of Appeals will make its decision and may reverse or affirm, in whole or part, or may modify any order, requirement, decision or determination.
- The variance or exception expires one (1) year after it is granted if no action is taken to affect the variance within the period. The Zoning Board of Appeals may grant up to an additional one (1) year extension of this time limit.
- e) A zoning variance does not excuse the applicant from obtaining a building permit.

 A building permit must be secured before construction begins.

CRITERIA FOR APPROVAL

The Zoning Board of Appeals treats each variance or appeal request individually and approves or denies each request on its own merits. In order for the Board of Appeals to grant a variance or appeal the applicant must satisfy all of the following findings which are contained in Section 78-107 of the Ada Township Zoning Ordinance:

That where there are practical difficulties or unnecessary hardship in carrying out the strict letter of this Ordinance, the Board of Zoning Appeals shall have the power to vary or modify any of the provisions hereof so that the spirit of the Ordinance shall be observed, public safety promoted, and substantial justice done. The Board of Zoning Appeals may grant such variances <u>only</u> upon finding that all of the following conditions exist:

Where it is found that, by reason of the exceptional narrowness, shallowness or shape of a specific parcel of property, or by reason of exceptional topographic conditions or other extraordinary situation of the land or structure or of the use of property immediately adjoining the property in question, the literal enforcement of this Ordinance would involve practical difficulties or would cause undue hardship; provided that no variance shall be granted on a lot if the owner owns adjacent land which could, without undue hardship, be included as part of the lot in question avoiding the need for a variance.

- b) Where it is found that there is practical difficulty or unnecessary hardship in carrying out the strict letter of this Ordinance and the ordinance can be varied in such a way that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.
- c) Where it is found that the condition or situation of the specific piece of property or the intended use of said property for which the variance is sought is not so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation in this Ordinance for such condition or situation.

Please note that the verbiage of the above stated conditions is generally abbreviated due to redundancy when reviewed by Staff and the Board.

APPLICATION FEE:

RESIDENTIAL USE: \$100.00

NON-RESIDENTIAL USE: \$300.00

TO BE COMPLETED BY THE ADA TOWNSHIP PLANNING DEPARTMENT

Application received: \$\frac{\sqrt{2\psi_2\sqrt{202}}}{\left(date)}\$	o by: eb		
Application fee of \$ 20000	received: $\frac{Q[27]{2}}{(date)}$	by: Kan	Check No:// \$
1000	(delle)		Receipt No: 296570

Updated 05/30/19

I am requesting two separate variances for new parcels that are being created. Over the past twelve years I have built a home and two barns on 95 acres. Because I am developing the land, the two barns that I have previously built are now situated on a parcel that does not have a principle building.

Variance standard #1 Where it is found that, by reason of the exceptional narrowness, shallowness or shape of a specific parcel of property, or by reason of exceptional topographic conditions or other extraordinary situation of the land or structure or of the use of property immediately adjoining the property in question, the literal enforcement of this chapter would involve practical difficulties or would cause undue hardship; provided that no variance shall be granted on a lot if the owner owns adjacent land which could, without undue hardship, be included as part of the lot in question avoiding the need for a variance.

Response: The new parcel will be enhanced by the existing barn. In fact, the whole development will benefit by the beautiful barns on these parcels. The home can be built within the 24 month period so the parcel will comply with current zoning. Without this variance a hardship would occur so that the existing barn would need to be torn down.

Variance Standard #2. Where it is found that there is practical difficulty or unnecessary hardship in carrying out the strict letter of this chapter and the chapter can be varied in such a way that the spirit of this chapter shall be observed, public safety secured, and substantial justice done.

Response: The zoning regulation provides difficulty and hardship because it speaks to the order of things being built e.g. principle building and then an accessory building. Since our order of building is different we ask for a variance that will give us time to comply with the spirit of the zoning chapter.

Variance #3: Where it is found that the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is not so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation in this chapter for such condition or situation.

Response: This situation is unusual because of the order in which the barns have been built differs with how a usual parcel is developed. This variance is not asking for a permanent change but allowing time so that these parcels can have principle buildings built -bringing them in compliance with the zoning ordinance.

